



United States Government

NATIONAL LABOR RELATIONS BOARD

Region 9

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June 17, 2005

McHugh Williams
Attn: Mr. James P. McHugh
Attorney at Law
Union Square, Building 2, Suite 201
P.O. Box 6771
Charleston, WV 25362

Re: NICHOLS & WRIGHT PAVING, INC.
Case 9-CA-41729

Dear Mr. McHugh:

I have received a copy of your appeal from the dismissal of the above-captioned charge, along with your request that I reconsider my dismissal of the charge. The charge alleges that the Employer, since about December 4, 2004, violated Section 8(a)(1) and (5) of the Act by withdrawing recognition from the Union and making unilateral changes in employees' terms and conditions of employment. There is no dispute that the Employer, after a long 8(f) relationship with the Union, withdrew recognition and ceased making benefit fund payments in December 2004. The Region dismissed the charge based on a finding that the bargaining unit had included only one employee since August 2001. This finding was based on a review of the contribution reports of the Union's benefit funds.

In your appeal, you contend that the Employer's reports to the benefit funds were false, and that, in fact, the Employer has employed more than one employee in the bargaining unit as recently as November 2004. After further investigation, I have concluded that the Employer did employ more than one bargaining unit employee during the relevant period.

Accordingly, I am hereby rescinding the dismissal letter that issued on April 27, 2005, and reopening the case for further processing.

Very truly yours,

/s/

Gary W. Muffley
Regional Director

GWM/EVO/md

cc's on next page

cc: Laborers' District Council, Charleston, WV,
Laborers' Local Union No. 543
One Union Square, Suite 5
Charleston, WV 25302

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